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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNICOLORS, INC.,) Case No. CV 24-05851 DDP (PDx)
Plaintiff,)
v.) **ORDER GRANTING DEFENDANT FILLY**
BELLA LIA BOUTIQUE, et al. ,) **FLAIR'S MOTION TO DISMISS**
Defendants.) [Dkt. 33]

Presently before the Court is Defendant Filly Flair Boutique LLC ("Filly Flair" or "Defendant")'s Motion to Dismiss for Lack of Personal Jurisdiction. (Dkt. 33.) Having considered the parties' submissions, the Court adopts the following order.

I. BACKGROUND

Plaintiff Unicolors, Inc. is a corporation based in Los Angeles, California. (Complaint ¶ 6.) Plaintiff allegedly designed and owns the copyright to a two-dimensional artwork for textile printing (the "Subject Design"). *Id.* ¶ 29. According to Plaintiff's complaint, Defendants created, sold, manufactured, imported, and/or distributed fabric or garments with unauthorized

1 reproductions of the Subject Design. *Id.* ¶ 33. The Complaint
2 therefore alleges copyright infringement claims against Defendants.

3 Defendant Filly Flair is an online retailer incorporated in
4 Delaware. (Declaration of Clara Grace "Grace Decl.", Dkt. 33-2 ¶
5 3.) Defendant represents that its principal and only place of
6 business is in South Dakota. (Motion at 2:6-7.) Plaintiff asserts
7 that although Filly Flair maintains no physical stores, it reaches
8 consumers through an online website, social media, and mobile
9 application but maintains no physical stores. (Opposition at 1:13-
10 18.) Filly Flair ordered 48 women's tops with the Subject Design
11 from a foreign vendor,¹ and sold 47 of them. (Grace Decl. ¶¶ 12,
12 14.) Defendant contends that none of the infringing tops sold were
13 purchased by or shipped to California residents. (*Id.* ¶ 15.)² The
14 parties dispute whether Defendant advertised the infringing tops in
15 California and whether Defendant targets advertisements or
16 marketing towards California residents in general. (*Id.* ¶ 10;
17 Declaration of Trevor W. Barrett, Exs. 6, 10-12.)

18 Defendant now moves to dismiss the case for lack of personal
19 jurisdiction.

20 **II. LEGAL STANDARD**

21 Federal Rule of Civil Procedure 12(b)(2) provides that a court
22 may dismiss a suit for lack of personal jurisdiction. The plaintiff
23 has the burden of establishing that jurisdiction exists. See *Sher*
24 *v. Johnson*, 911 F.2d 1357, 1361 (9th Cir. 1990). Where, as here,

25 ¹The parties dispute whether the infringing garments were purchased
26 from a foreign or California based vendor. See Declaration of
27 Trevor W. Barrett ("Barrett Decl."), Ex. 1, 2 (Dkt. 40-1, 40-2);
Declaration of Clara Grace ("Grace Decl."), Dkt. 33-2 ¶ 12.

28 ² Although Plaintiff argues in a sur-reply that this evidence is
self-serving, Plaintiff has not put forth any evidence of
California sales.

1 the motion is based on written materials rather than an evidentiary
2 hearing, "the plaintiff need only make a prima facie showing of
3 jurisdictional facts." *Caruth v. International Psychoanalytical*
4 *Ass'n*, 59 F.3d 126, 128 (9th Cir. 1977); *Pebble Beach Co. v. Caddy*,
5 453 F.3d 1151, 1154 (9th Cir. 2006). "Although the plaintiff cannot
6 simply rest on the bare allegations of its complaint,
7 uncontroverted allegations in the complaint must be taken as true."
8 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 797 (9th
9 Cir. 2004) (internal quotations and citation omitted). Conflicts
10 between parties over statements contained in affidavits must be
11 resolved in the plaintiff's favor. *Id.*

12 **III. DISCUSSION**

13 Exercise of personal jurisdiction is "proper if it is
14 permitted by a long-arm statute and if the exercise of that
15 jurisdiction does not violate federal due process." *Pebble Beach*
16 *Co.*, 453 F.3d at 1155 (citing *Fireman's Fund Ins. Co. v. Nat'l Bank*
17 *of Coops.*, 103 F.3d 888, 893 (9th Cir. 1996)). Federal courts defer
18 to state law to determine "the bounds of their jurisdiction over
19 persons." *Daimler AG v. Bauman*, 571 U.S. 117, 125 (2014).
20 California's long-arm statute permits the exercise of personal
21 jurisdiction to the extent the Constitution of California or the
22 United States allows. Cal. Code. Civ. Proc. § 410.10. Thus, courts
23 must determine whether the exercise of jurisdiction "comports with
24 due process." *Picot v. Weston*, 780 F.3d 1206, 1211 (9th Cir.
25 2015).

26 Exercise of personal jurisdiction over a nonresident defendant
27 does not violate due process if the defendant has sufficient
28 "minimum contacts" with the forum such that litigating there would

1 not "offend 'traditional notions of fair play and substantial
2 justice.'" *Goodyear Dunlop Tires Operations, S.A v. Brown*, 564
3 U.S. 915, 923 (2011) (quoting *International Shoe Co. v. Washington*,
4 326 U.S. 310, 316 (1945)). Courts may exercise general
5 jurisdiction when the defendant's contacts with the forum are "so
6 'continuous and systematic' as to render them essentially at home
7 in the forum State." *Goodyear*, 564 U.S. at 919. Courts may
8 exercise specific jurisdiction when the defendant's contacts with
9 the forum give rise to the action. *Rano v. Sipa Press, Inc.*, 987
10 F.2d 580, 588 (9th Cir. 1993) (citing *Haisten v. Grass Valley Med.*
11 *Reimbursement Fund, Ltd.*, 784 F.2d 1392 (9th Cir. 1986)).

12 Here, the parties do not dispute that this Court lacks general
13 jurisdiction over Filly Flair. As such, the court will only
14 address the issue of specific personal jurisdiction. The Ninth
15 Circuit follows a three-part test for determining specific
16 jurisdiction: (1) the defendant must perform some conduct within
17 the forum to purposefully avail themselves of the "benefits and
18 protections of its laws," (2) the claim must arise out of or result
19 "from the defendant's forum-related activities," and (3)
20 "[e]xercise of jurisdiction must be reasonable." *Haisten*, 784 F.2d
21 at 1397.

22 The second prong requires that the claim "arise out of or
23 relate to the defendant's contacts with the forum." *Ford Motor Co.*
24 *v. Montana Eighth Jud. Dist. Ct.*, 592 U.S. 351, 359 (2021). The
25 Supreme Court highlighted in *Ford* that "arise out of" and "relate
26 to" are separate means of supporting personal jurisdiction. *Id.* at
27 362. "Arise out of" is a causal test, but "relate to"
28 "contemplates that some relationships will support jurisdiction

1 without a causal showing." *Id.* (emphasis added).

2 As the Supreme Court noted in *Ford*, however, "[t]hat does not
3 mean anything goes," as even the phrase "relate to" "incorporates
4 real limits" to protect defendants. *Id.* In *Ford*, plaintiffs sued
5 an automaker in their respective home states for injuries suffered
6 due to a vehicle defect while driving in those states. *Id.* at 356.
7 Ford sought to dismiss for lack of personal jurisdiction in each
8 action, arguing that each forum lacked a causal connection to
9 plaintiffs' claims because Ford did not design, manufacture, or
10 sell plaintiffs' specific vehicles in the plaintiffs' home states.
11 *Id.* The Supreme Court highlighted, however, that no causal
12 relationship between Ford's conduct in the forum and plaintiffs'
13 claims was necessary to establish personal jurisdiction. *Id.* at
14 361, 362. Rather, the Court explained, Ford's conduct in the forum
15 need only, and did, "relate to" plaintiff's injuries. *Id.* at 365.
16 Ford encouraged forum residents to buy Ford vehicles, including the
17 models at issue, through advertising in "billboards, TV and radio
18 spots, print ads, and direct mail." *Id.* Although Ford did not
19 sell any of the allegedly defective vehicles in the plaintiffs'
20 home states, Ford did have 120 dealerships in those states alone,
21 and maintained ongoing relationships with consumers in those states
22 by offering regular maintenance and repair services and selling
23 Ford-certified parts even to independent auto shops. *Id.* Because,
24 the Court concluded, "Ford had systematically served" the forum
25 states' markets for the exact model of vehicles that caused
26 plaintiffs' injuries, "there is a strong relationship among the
27 defendant, the forum, and the litigation." *Id.* (internal quotation
28 marks omitted).

1 Here, Plaintiff has not shown that its claims against Filly
2 Flair “arise out of” Filly Flair’s conduct in California. The
3 question, therefore, is whether Plaintiff has shown that its
4 infringement claims are “related to” Filly Flair’s conduct in
5 California.

6 The facts of this case are distinguishable from *Ford*.
7 Although Ford had not sold plaintiffs’ particular vehicles in the
8 forum state, Ford had sold, promoted, and serviced identical models
9 in the state and “systematically served” the forum states’ markets.
10 *Id.* at 365. Here, Plaintiff has not demonstrated that Filly Flair
11 had any comparable presence in California. Unlike Ford, who
12 maintained physical locations, employees, and services performed in
13 the forum state, Filly Flair does not rent, own, or maintain any
14 corporate or personal property in California, employ anyone who
15 resides in California, or maintain any bank accounts, records, or
16 computer servers/hardware in California. (Grace Decl. at ¶¶ 4-10).
17 Nevertheless, Plaintiff represents Filly Flair has substantial
18 contacts with California in other respects, such as frequent sales
19 of other items to California residents, targeted advertising and
20 marketing directed at California residents, compliance with
21 California privacy laws, and mobile applications and a website
22 accessible to California residents. (Barrett Decl. Ex. 3, ¶¶ 5-8;
23 *Opp.* at 5:12-13.)

24 Plaintiff’s declarations and exhibits, however, do not
25 demonstrate any sales to or targeting of California residents. For
26 example, Plaintiff asserts that because Filly Flair has an outside
27 investor and has gained over a million followers on social media,
28 “[i]t would defy logic and common sense to assert that it does not

1 sell to customers in California.” (Opp. at 5:15-18.) Plaintiff
2 obtained the “one million” followers estimate from a statement made
3 by the founder of Filly Flair in a local South Dakota web-magazine
4 interview. (Barrett Decl. Ex. 9.) Plaintiff does not attempt to
5 verify the accuracy of the founder’s statement, and indeed only
6 provides a screenshot of Filly Flair’s Instagram account, with only
7 133,000 followers. (Barrett Decl. Ex.3.) Plaintiff did not
8 provide additional screenshots from Filly Flair’s social media
9 accounts, which are visibly displayed at the bottom of Plaintiff’s
10 Exhibit 4, to account for the remaining 85% of Filly Flair’s
11 supposed followers. Nor, notwithstanding its contention that logic
12 dictates that Filly Flair made California sales, does Plaintiff
13 submit proof of even a single purchase by a California consumer.
14 With respect to targeting, Plaintiff has demonstrated that Filly
15 Flair uses Google and Facebook advertisements, and that both Google
16 and Facebook offer location-targeted advertising. (Barrett Decl.
17 Ex. 7, 12-13). But although these advertising platforms may offer
18 the option to target advertisements to particular locations,
19 Plaintiff provides no evidence that Filly Flair actually used these
20 services and actively chose to target California Consumers.

21 That Filly Flair complied with California privacy law and
22 maintained a website and mobile application do not demonstrate any
23 presence in the forum state comparable to that highlighted in *Ford*,
24 and Plaintiff cites no authority for the proposition that such
25 contacts justify the exercise of personal jurisdiction. To the
26 contrary, the Ninth Circuit and courts within this circuit have
27 held that similar contacts alone are insufficient to establish
28 personal jurisdiction. See *LNS Enters. LLC v. Continental Motors*,

1 *Inc.*, 22 F.4th 852, 863 (9th Cir. 2022) (“We agree that the mere
2 existence of a ‘passive website’ . . . is insufficient to render
3 the company subject to personal jurisdiction.”); *Good Job Games*
4 *Bilism Yazilim Ve Pazarlama A.S. v. SayGames LLC*, 458 F. Supp. 3d
5 1202, 1208 (N.D. Cal. 2020) (“The mere availability of downloading
6 [the defendant’s app-based game], by itself, does not create
7 personal jurisdiction.”); *Engineer.ai Corp. v. Appy Pie LLC*, No.
8 2:22-cv-05376, 2023 WL 5207499, at *9 (C.D. Cal. June 13, 2023)
9 (“[M]ultiple courts have found that a California-specific privacy
10 policy is not, alone, sufficient to find personal jurisdiction.”).


11 Plaintiff has not demonstrated that Filly Flair has
12 “systematically served” the California market or that Plaintiff’s
13 claims sufficiently “relate to” Filly Flair’s California conduct.³

14 **IV. CONCLUSION**

15 For the foregoing reasons, Plaintiffs’ Motion to Dismiss for
16 Lack of Personal Jurisdiction is GRANTED.

17 IT IS SO ORDERED.

18 Dated: March 14, 2025


HONORABLE DEAN D. PREGERSON
United States District Judge

27 _____
28 ³ Because Plaintiff has not made a showing that its claim is even “related to”
Filly Flair’s California conduct, the court need not address the remaining
prongs of the personal jurisdiction test.